THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.12653 OF 1996

DATED: 5-12-2006

Between:

Dredging Corporation of India Limited represented by its Chairman and Managing Director, Dredge House, Port Area, Visakhapatnam-35.

.. Petitioner

and

The Deputy Commissioner of Labour and the 2nd Appellate Authority under A.P. Shops and Establishments Act, 1988, Visakhapatnam and others

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

W.P.NO.12653 OF 1996

Order:

This writ petition is filed seeking a certiorari to call for the records relating to and in connection with the order dated 19-01-1994 of the 2nd respondent as confirmed by the order of the 1st respondent in A.P.S.E. Appeal M.P.1/95 (before the second Appellate Authority under the Andhra Pradesh Shops and Establishments Act 1988), Visakhapatnam and quash the same as arbitrary and illegal.

At the outset, it may be stated that the writ petition was dismissed against the respondent No.8 vide order of this Court dated 14-02-2003.

The petitioner is the Dredging Corporation of India Limited represented by its Chairman and Managing Director, Visakhapatnam. The respondents 3 to 6 are the employees and the respondents 7 to 9 are the contractors of the Canteen run under the petitioner-Corporation. It appears, the respondents 3 to 6 have filed an appeal before the Authority Under Section 48 of the Andhra Pradesh Shops and Establishments Act 1988 (Assistant Commissioner of Labour, Visakhapatnam). It also appears the respondents 3 to 6 were appointed in the year 1989 in the canteen belonging to the petitioner and run by the respondents 7 to 9. During the year 1991, the contractor was substituted by another contractor. While so, the Assistant Commissioner of Labour who inspected the premises pointed out that minimum wages are not being paid to the respondents

3 to 6. As a result of which, respondents 3 to 6 were discontinued by the contractor. No compensation was paid to them and their services were terminated illegally. Therefore, they have carried the matter in appeal bearing F.A.No.4 of 1993 on the file of the Authority Under Section 48 of the Andhra Pradesh Shops and Establishments Act 1988. However, the Authority found that the respondents 3 to 6 are employees as per the Provisions of the Andhra Pradesh Shops and Establishments Act and they can be treated as employees of the petitioner herein as they are engaged with the contractor in the canteen belonging to the petitioner herein for the purpose of providing eateries to its employees and further the Shops and Establishments Act prohibits dismissal of an employee when a complaint of non-payment of minimum wages is pending. However, finally it is observed that they could not approach the Labour Court for working out their remedies. In the facts and circumstances of the case, the Authority has granted a compensation of Rs.5,000/- each and gave liberty to the petitioners (respondents 3 to 6 herein) to recover the same from the contractor. The same was confirmed by the 1st respondent-APSE Appeal No. 1 of 1995 by an order dated 26-12-1995. Aggrieved by the same, the present petition is filed.

I am of the opinion that may be there are so many questions of law arise for consideration, but the compensation awarded in lieu of the reinstatement is very very meager and does not inspire confidence of this Court to go into those legal questions raised by the learned counsel for the petitioner. The petitioner was given liberty to recover the same from the contractor who engaged the respondents 3 to 6 after paying the said compensation.

The writ petition is accordingly dismissed. There shall be no order as to costs.

C.V. RAMULU, J

05-12-2006.

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